

Remarks

Applicants respectfully request reconsideration in view of the foregoing amendments and the following remarks. Claims 17-22 and 37-53 are pending. Claims 53 and 54 are new.

Interview Summary

The Applicant thanks the Examiner for holding a telephone interview on September 11, 2006. The interview covered a proposed amendment to claim 17, but no agreement was reached.

Rejections under 35 U.S.C. § 103(a) over Aravamudan and Friskel

Claims 17-22, 41-42, 45 and 50-53 stand rejected under 35 U.S.C. § 103(a) over U.S. Pat. No. 6,301,609 to Aravamudan et al. (Aravamudan) in view of U. S. Pat. No. 6,839,737 to Friskel (Friskel). Applicant respectfully traverses this rejection.

Independent Claim 17

Amended claim 17 recites:

A messaging method, comprising:
selecting a message type for a message for delivery to at least one selected recipient;
evaluating application presence data associated with a recipient activity status record for an initiated application associated with the selected message type;
evaluating a timeliness indicator associated with the message; and
processing the message based on the evaluations, *the processing comprising determining whether to deliver the message to the selected recipient based at least in part on the timeliness indicator. . . .*

For example, the original specification states:

[A]pplications that provide delivery of time sensitive or time appropriate information such as financial data, advertising, announcements, sports data, news, or other information can be configured based on user presence data obtained from a presence server or a presence repository. *As a specific example, financial quotations based on current market conditions can be discarded if user presence data indicates that the user is unavailable or delivered if the user presence data indicates that the user is available.* Typically financial quotations that do not reflect current market conditions can be discarded, particularly if the user receives such data in order to select financial transactions for immediate execution. *Similarly, travel or advertising data pertaining to a specific event need not be supplied unless the user is available to receive the data before the event occurs.* Alternatively, such untimely data can be delivered to an alternate destination. Redirection or discarding of untimely data tends to reduce network loading associated with data delivery in such applications.

See, page 12, line 22 – page 13, line 7 (emphasis added).

Aravamudan and Friskel do not teach or suggest such a method. For example, both references are silent as to “evaluating a timeliness indicator associated with the message.” Instead, Aravamudan describes determining whether a user is online, whether a user has responded to a message, and whether a user is registered as “active.” See, e.g., col. 8, line 51 – col. 9, line 27; and Fig. 8. Friskel describes “indicating the status of the sender of an electronic mail message” (see col. 1, lines 8-12), but is likewise silent as to a “timeliness indicator associated with the message.” For at least these reasons, claim 17 is allowable over Aravamudan and Friskel.

Claims 18-22, 41 and 42 depend from claim 17 and are allowable for at least the reasons stated above with respect to their parent claim, as well as for the unique combinations of features recited therein. Applicant respectfully requests withdrawal of the rejections.

Independent Claim 45

Amended claim 45 recites:

A messaging method, comprising:
selecting a message type for a message for delivery to at least one selected recipient;
evaluating application presence data associated with a recipient activity status record for an initiated application associated with the selected message type, *wherein the presence data comprises an indicator of whether a cell phone associated with the selected recipient is operating in data mode or in voice mode*; and
processing the message based on the evaluation. . . .

For example, the original specification states:

[U]ser presence data can include cell phone status such as data or voice mode indications and applications configured to transmit messages appropriately.

See page 11, lines 8-10 (emphasis added).

Aravamudan and Friskel do not teach or suggest such a method. For example, Friskel is silent as to cell phones in general. Aravamudan describes handling a “voice call” (see, e.g., col.5, lines 59-61) but is silent as to “an indicator of whether a cell phone . . . is operating in data mode or in voice mode.” For at least these reasons, claim 45 is allowable over Aravamudan and Friskel.

Claims 50-53 depend from claim 45 and are allowable for at least the reasons stated above with respect to their parent claim, as well as for the unique combinations of features recited therein. Applicant respectfully requests withdrawal of the rejections.

Rejections under 35 U.S.C. § 103(a) over Aravamudan, Friskel and Maurine

Claims 37-40 stand rejected under 35 U.S.C. § 103(a) over Aravamudan in view of Friskel and U.S. Pat. No. 6,484,196 to Maurille (Maurille). Applicant respectfully traverses this rejection.

Claims 37-40 depend from claim 17. As explained above, claim 17 is allowable over Aravamudan and Friskel. Maurille does not remedy the shortcomings of Aravamudan and Friskel. Maurille describes an “ExpiryDate” indicating when “message is to be expired (automatically deleted)” (see, e.g., col. 8, lines 63-64), but is silent as to “determining whether to deliver the message to the selected recipient based at least in part on the timeliness indicator.” Claim 17 is therefore likewise allowable over a Aravamudan-Friskel-Maurille combination. Claims 37-40 are therefore allowable for at least these reasons, as well as for the unique combinations of features recited therein. Applicant respectfully requests withdrawal of the rejections.

Rejections under 35 U.S.C. § 103(a) over Aravamudan, Friskel and Barsness

Claim 43 stands rejected under 35 U.S.C. § 103(a) over Aravamudan in view of Friskel and U.S. Pat. App. Pub. 2004/0117443 to Barsness. Applicant respectfully traverses this rejection.

Claims 43 depends from claim 17. As explained above, claim 17 is allowable over Aravamudan and Friskel. Barsness does not remedy the shortcomings of these references. For example, Barsness is silent as to “evaluating a timeliness indicator associated with the message.” Instead, Barsness describes inferring “a user’s availability from one or more indicia which include the user’s electronic calendar.” See Abstract. Claim 17 is therefore allowable over an Aravamudan-Friskel-Barsness combination, and claim 43 is likewise allowable for similar reasons, as well as for the unique combination of features recited therein. Applicant respectfully requests withdrawal of the rejection.

Rejections under 35 U.S.C. § 103(a) over Aravamudan and Ogle

Claims 44 and 46-49 stand rejected under 35 U.S.C. § 103(a) over Aravamudan in view of U. S. Pat. No. 6,430,604 to Ogle (Ogle). Applicant respectfully traverses this rejection.

Independent Claim 44

Amended claim 44 recites:

A messaging method, comprising:
selecting a message type for a message for delivery to at least one selected recipient;
evaluating application presence data associated with a recipient activity status record for an application associated with the selected message type;
evaluating a timeliness indicator associated with the message; and
processing the message based on the evaluations, the processing comprising
determining whether to deliver the message to the selected recipient based at least in part on the timeliness indicator. . . .

See the original application at, e.g., page 12, line 22 – page 13, line 7. As was similarly explained above with respect to claim 17, Aravamudan does not teach or suggest “evaluating a timeliness indicator associated with the message” or “processing comprising determining whether to deliver the message to the selected recipient based at least in part on the timeliness indicator.” Ogle describes “alternative message delivery mechanisms” (see, e.g., Abstract) but does not overcome the deficiencies of Aravamudan. For at least these reasons, claim 44 is allowable over Aravamudan and Ogle.

Claims 46-49 depend from claim 44 and are allowable over Aravamudan and Ogle for at least the reasons stated above with respect to their parent claim, as well as for the unique combinations of features recited therein. Applicant respectfully requests withdrawal of these rejections.

New Claims

Claims 54 and 55 are new. These claims depend from claim 17, and the original specification contains support for the new claims at, for example, page 12, line 22 – page 13, line 7.

Conclusion

In view of the preceding amendments and remarks, all pending claims are in condition for allowance, and action to such end is requested. Should any issues remain, the Examiner is requested to call the undersigned attorney.

Respectfully submitted,

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